

Remarks

The Applicants have cancelled Claims 1-7, 12-14, 19-26, 28-29, 31-32 and 37-38 without prejudice and without disclaimer of the subject matter therein. Claim 16 has been amended to change the dependency of cancelled Claim 1 to independent Claim 8. Entry of the above amendment and cancellations into the official file is respectfully requested.

Claims 1-14, 16-33 and 37-39 stand rejected under 35 USC §103 over the combination of Sadamitsu with Asakura. The Applicants respectfully submit that the rejection is now moot with respect to the cancelled claims. The Applicants will address the rejection by reference primarily to independent Claim 8.

The Applicants note with appreciation the Examiner's detailed comments applying the hypothetical combination against the remaining claims, particularly the comments addressing Claim 8 on pages 5 and 6 of the Official Action. The Applicants nonetheless respectfully submit that one skilled in the art would not make the combination of Sadamitsu with Asakura. Detailed reasons follow.

The rejection contains arguments that would theoretically motivate one skilled in the art to combine Sadamitsu with Asakura. The Applicants believe that there are a number of reasons why there is no such motivation. However, in rejecting the claims under §103, it is not only necessary to provide evidence of motivation to make the combination, but also that there would be a reasonable success in so doing. The Applicants respectfully submit that Sadamitsu and Asakura also fail to provide such a reasonable expectation of success. The Applicants will address motivation first.

The comments with respect to independent Claim 8 on pages 5 and 6 of the Official Action for the most part represent a collection of individual arguments that, assuming *arguendo* are true, do not provide motivation to make the combination. In any event, Asakura fundamentally discloses a laminated film with the film containing PMP (poly methyl pentene). Importantly, PMP remains as a nucleus in the voids of the resulting film.

This is sharply contrasted to Sadamitsu which discloses β -crystallization caused by a nucleating agent in a polypropylene polymer. The nucleating agent creates voids. However, the nucleating agent does not remain as a nucleus in the voids.

Thus, the Applicants respectfully submit that one skilled in the art would not be motivated to combine a disclosure (Sadamitsu) which teaches that the nucleating agent does not remain as a nucleus in the voids with a disclosure that teaches essentially the opposite wherein the PMP remains as a nucleus in the voids. This is a completely different teaching and the teachings are essentially not compatible. In other words, making the combination of Sadamitsu with Asakura would destroy a fundamental teaching of Asakura.

The Applicants respectfully submit that such opposed teachings are fundamental indicators of a lack of motivation to combine references. In particular, combinations which are destructive of a fundamental component of the primary reference is a classic indicator of a lack of motivation to combine. Similarly, opposed teachings or teachings that lead those skilled in the art away from fundamental disclosure are also indicative of a lack of motivation to combine. The Applicants therefore respectfully submit that the rejection is inapplicable on this basis alone.

However, referring to the reasonable expectation of success, the Applicants invite the Examiner's attention to the Applicants' claimed cushion factor of about 16 to about 30%. This is contrasted to the cushion factors of Asakura. While Asakura literally mentions a cushion factor of "8% or greater, preferably 10 % or greater," it is clear by reference to the many examples (and comparative examples) of Asakura that the highest cushion factor that is actually achievable is 15.6 as indicated in embodiment 4. In other words, the "real" cushion factor disclosed by Asakura is at a maximum less than 16%.

Then, if one skilled in the art looks to Sadamitsu, there is no disclosure concerning the cushion factor. However, the Applicants have established a cushion factor for Sadamitsu in particular with reference to Example 1 of Sadamitsu. This was established in the Declaration of Mr. Matsui that was submitted on January 26, 2010. That cushion factor for Example 1 of Sadamitsu was 4.

If one skilled in the art were to look to the disclosure of Asakura which demonstrates a real life achievable cushion factor of less than 16 and further look to combine a core layer of Sadamitsu with Asakura wherein the film of Sadamitsu has a cushion factor of 4, one skilled in the art would have a reasonable expectation that the cushion factor would surely be less than the maximum achievable cushion factor of Asakura, which is less than 16. In fact, the Applicants respectfully submit that one skilled in the art would have a reasonable expectation that the

cushion factor of the overall film would be much lower and surely outside of the Applicants' claimed cushion factor.

Accordingly, the Applicants respectfully submit that one skilled in the art would have little or no expectation of success in achieving the Applicants' claimed cushion factors by hypothetically combining Sadamitsu with Asakura. Thus, on this basis alone, the Applicants respectfully submit that the combination is applicable.

The Applicants therefore respectfully submit that when both the lack of motivation to make the combination is considered and the lack of a reasonable expectation of success in so doing is taken into consideration, the Applicants respectfully submit that those skilled in the art would not make the combination and the rejection under §103 cannot be sustained. Withdrawal of the rejection is accordingly respectfully requested.

In light of the foregoing, the Applicants respectfully submit that the entire application is now in condition for allowance, which is respectfully requested.

Respectfully submitted,



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